

AUG 18 2008

BY: JOHN F. CORCORAN, CLERK
H. J. COOPER, DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

UNITED STATES OF AMERICA,) Case No. 7:04-cr-00078
v.)
PHILLIP AUBREY IRVING.) FINAL ORDER
)
) By: Hon. James C. Turk
) Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

that Respondent's motion to dismiss is hereby **GRANTED** and Petitioner's motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, shall be and hereby is **DISMISSED**, and this action is hereby stricken from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the respondent.

ENTER: This 15th day of August, 2008.

James L. T. Tamm
Senior United States District Judge